

Lesson 3***Student Handout 3.4*****Baron de Montesquieu (1689-1755)**Education:

College of Juilly, France.

Early Life:

He was born in France. His uncle died in 1714 and left Montesquieu his riches and his title. He became a lawyer and was famous as a writer who criticized the French king and the Catholic Church. His most famous book was *The Spirit of Laws*. It explained how the government should be organized.

Beliefs:

He agreed with Locke in many ways about the role of government. Montesquieu admired the system in England that limited the power of the king. He said the government should be broken into different sections and that each should have some power to control the others. He wanted government to split into three branches. One branch would make laws, another would interpret the laws, and the third would enforce the laws. This system is called separation of powers, and was the model for the US government.

One of the most important ideas from his system is that each branch has some control over another branch. For example, the legislature makes laws, but the head of state (president) enforces them. Montesquieu believed this system would prevent a leader from becoming a tyrant.

Modern History Sourcebook:

Montesquieu:

The Spirit of the Laws, 1748

Charles de Secondat, Baron de Montesquieu (1689-1755), was a nobleman, a judge in a French court, and one of the most influential political thinkers. Based on his research he developed a number of political theories presented in The Spirit of the Laws (1748).

This treatise presented numerous theories - among the most important was respect for the role of history and climate in shaping a nation's political structure.

It was for his views on the English Constitution, which he saw in an overly idealized way, that he is perhaps most renowned.

In every government there are three sorts of power; the legislative; the executive, in respect to things dependent on the law of nations; and the executive, in regard to things that depend on the civil law.

By virtue of the first, the prince or magistrate enacts temporary or perpetual laws, and amends or abrogates those that have been already enacted. By the second, he makes peace or war, sends or receives embassies; establishes the public security, and provides against invasions. By the third, he punishes criminals, or determines the disputes that arise between individuals. The latter we shall call the judiciary power, and the other simply the executive power of the state.

The political liberty of the subject is a tranquillity of mind, arising from the opinion each person has of his safety. In order to have this liberty, it is requisite the government be so constituted as one man need not be afraid of another.

When the legislative and executive powers are united in the same person, or in the same body of magistrates, there can be no liberty; because apprehensions may arise, lest the same monarch or senate should enact tyrannical laws, to execute them in a tyrannical manner.

Again, there is no liberty, if the power of judging be not separated from the legislative and executive powers. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control, for the judge would then be the legislator. Were it joined to the executive power, the judge might behave with all the violence of an oppressor.

There would be an end of every thing were the same man, or the same body, whether of the nobles or of the people to exercise those three powers that of enacting laws, that of executing the public resolutions, and that of judging the crimes or differences of individuals.

Lesson 3

Student Handout 3.3



Cesare Beccaria (1738-1794)

Education:

Jesuit College at Parma, Italy.

Early Life:

Cesare Beccaria was born in Milan, Italy. He studied the writers of the eighteenth-century French Enlightenment, especially the words of Baron de Montesquieu.

Beliefs:

Beccaria believed that people who were accused of a crime should have rights. He did not like the death penalty and believed torture was wrong. He believed that education would reduce the crime rate. The right to a fair and speedy trial was one of his ideas. He also believed that the punishment should be the same for everyone who commits the same crime. His ideas led to changes in European and American criminal laws.

Modern History Sourcebook: Cesare Beccaria: Essay on Crimes and Punishments

Cesare Beccaria applied the an Enlightenment analysis to crime and punishment, and to the ugliness of the traditional legal and penal system.

If we look into history we shall find that laws, which are, or ought to be, conventions between men in a state of freedom, have been, for the most part the work of the passions of a few, or the consequences of a fortuitous or temporary necessity; not dictated by a cool examiner of human nature, who knew how to collect in one point the actions of a multitude, and had this only end in view, *the greatest happiness of the greatest number*. Observe that by *justice* I understand nothing more than that bond which is necessary to keep the interest of individuals united, without which men would return to their original state of barbarity. All punishments which exceed the necessity of preserving this bond are in their nature unjust. The end of punishment, therefore, is no other than to prevent the criminal from doing further injury to society, and to prevent others from committing the like offence. Such punishments, therefore, and such a mode of inflicting them, ought to be chosen, as will make the strongest and most lasting impressions on the minds of others, with the least torment to the body of the criminal. The torture of a criminal during the course of his trial is a cruelty consecrated by custom in most nations. It is used with an intent either to make him confess his crime, or to explain some contradiction into which he had been led during his examination, or discover his accomplices, or for some kind of metaphysical and incomprehensible purgation of infamy, or, finally, in order to discover other crimes of which he is not accused, but of which he may be guilty. No man can be judged a criminal until he be found guilty; nor can society take from him the public protection until it have been proved that he has violated the conditions on which it was granted. What right, then, but that of power, can authorise the punishment of a citizen so long as there remains any doubt of his guilt? This dilemma is frequent. Either he is guilty, or not guilty. If guilty, he should only suffer the punishment ordained by the laws, and torture becomes useless, as his confession is unnecessary. If he be not guilty, you torture the innocent; for, in the eye of the law, every man is innocent whose crime has not been proved. Crimes are more effectually prevented by the *certainty* than the *severity* of punishment.

In proportion as punishments become more cruel, the minds of men, as a fluid rises to the same height with that which surrounds it, grow hardened and insensible; and the force of the passions still continuing in the space of an hundred years the *wheel* terrifies no more than formerly the *prison*. That a punishment may produce the effect required, it is sufficient that the evil it occasions should exceed the *good* expected from the crime, including in the calculation the certainty of the punishment, and the privation of the expected advantage. All severity beyond this is superfluous, and therefore tyrannical. The punishment of death is pernicious to society, from the example of barbarity it affords. If the passions, or the necessity of war, have taught men to shed the blood of their fellow creatures, the laws, which are intended to moderate the ferocity of mankind, should not increase it by examples of barbarity, the more horrible as this punishment is usually attended with formal pageantry. Is it not absurd, that the laws, which detest and punish homicide, should, in order to prevent murder, publicly commit murder themselves?

It is better to prevent crimes than to punish them. This is the fundamental principle of good legislation, which is the art of conducting men to the *maximum* of happiness, and to the *minimum* of misery, if we may apply this mathematical expression to the good and evil of life.... Would you prevent crimes? Let the laws be clear and simple, let the entire force of the nation be united in their defence, let them be intended rather to favour every individual than any particular classes of men; let the laws be feared, and the laws only. The fear of the laws is salutary, but the fear of men is a fruitful and fatal source of crimes.

From Cesare Beccaria, *An Essay on Crimes and Punishments*, E. D. Ingraham, trans. (Philadelphia: H. Nicklin, 1819), pp. xii, 1819, 47, 59-60, 9394, 104-105, 148, 149.

Lesson 3***Student Handout 3.8*****Voltaire (1694-1778)****Education:**

Jesuit College Louis-le-Grand, France.

Early Life:

Voltaire was born in Paris, France. He began to make friends with wealthy aristocrats in Paris. He became a writer because of his ability to make sarcastic jokes. He was sent to prison for eleven months because he made a political cartoon of one of the French government leaders. He continued to ridicule political leaders and was thrown in prison a second time. In order to get out of prison, he had to promise to leave France, so he went to England.

Beliefs:

Voltaire is often described as generous, enthusiastic, sentimental, and often distrustful. He felt that all things must be explained logically and reasonably. He fought against intolerance, tyranny, and superstition. He believed in freedom of thought and respect for all individuals. Most importantly, he believed that religion was too powerful and defended individuals who suffered because of their beliefs. He was against any form of religion that was too strict and did not accept the view of others, even though he did believe in God. He thought literature could be used to help understand the problems of the day.

Voltaire: *A Treatise on Toleration* (1763)

Chapter 22: On Universal Tolerance

It does not require great art, or magnificently trained eloquence, to prove that Christians should tolerate each other. I, however, am going further: I say that we should regard all men as our brothers. What? The Turk my brother? The Chinaman my brother? The Jew? The Siam? Yes, without doubt; are we not all children of the same father and creatures of the same God?

But these people despise us; they treat us as idolaters! Very well! I will tell them that they are grievously wrong. It seems to me that I would at least astonish the proud, dogmatic Islam imam or Buddhist priest, if I spoke to them as follows:

"This little globe, which is but a point, rolls through space, as do many other globes; we are lost in the immensity of the universe. Man, only five feet high, is assuredly only a small thing in creation. One of these imperceptible beings says to another one of his neighbors, in Arabia or South Africa: 'Listen to me, because God of all these worlds has enlightened me: there are nine hundred million little ants like us on the earth, but my ant-hole is the only one dear to God; all the other are cast off by Him for eternity; mine alone will be happy, and all the others will be eternally damned.'"

They would then interrupt me, and ask which fool blabbed all this nonsense. I would be obliged to answer, "You, yourselves." I would then endeavor to calm them, which would be very difficult.

I would then speak with the Christians, and I would dare to say, for example, to a Dominican Inquisitor of the Faith: (9) "My brother, you know that each province of Italy has their own dialect, and that people do not speak at Venice or Bergamo the same way they speak at Florence. The Academy of Crusca near Florence has fixed the language; its dictionary is a rule which one dare not depart from, and the Grammar of Buonmattei is an infallible guide that one must follow. But do you believe that the consul of the Academy, or Buonmattei in his absence, could in conscience cut the tongues out of all the Venetians and all the Bergamese who persist in speaking their dialect?"

The inquisitor responds, "There is a difference between your example and our practice. For us, it is a matter of the health of your soul. It is for your good that the director of the Inquisition ordains that you be seized on the testimony of a single person, however infamous or criminal that person might be; that you will have no advocate to defend you; that the name of your accuser will not even be known by you; that the inquisitor can promise you mercy, and immediately condemn you; that five different tortures will be applied to you, and then you will be flogged, or sent to the galleys, or ceremoniously burned. Father Ivonet, Doctor Cuchalon, Zanchinus, Campegius, Roias, Felynus, Gomarus, Diabarus, Gemelinus, are explicit on this point, and this pious practice cannot suffer any contradiction."

I would take the liberty to respond, "My brother, perhaps you are reasonable; I am convinced that you wish to do me good; but could I not be saved without all that?"

It is true that these absurd horrors do not stain the face of the earth every day; but they are frequent, and they could easily fill a volume much greater than the gospels which condemn them. (10) Not only is it extremely cruel to persecute in this brief life those who do not think the way we do, but I do not know if it might be too presumptuous to declare their eternal damnation. It seems to me that it does not pertain to the atoms of the moment, such as we are, to anticipate the decrees of the Creator.

Lesson 3***Student Handout 3.5*****Jean-Jacques Rousseau (1712-1778)****Education:**

Self-educated; also served an apprenticeship as engraver and notary.

Early Life:

He was born in Geneva, Switzerland. His mother died when he was born, so he was raised by an aunt. When Rousseau turned thirteen, he worked as an apprentice for an engraver but ran away after three years. He became a secretary for a wealthy woman, who subsequently had much influence on his life. He moved to Paris where he became a music teacher.

Beliefs:

He believed that individuals should have certain rights. His ideas supported the French revolution. Rousseau felt that whatever the majority of the people wanted should become law. Rousseau's ideas of individual freedom spread throughout Europe and the United States. He was against the absolute power or control of the Church and government, and he believed that the government should do what the majority of the people wanted. He also argued that if the people were in control, then the rules should be strictly enforced. Rousseau felt that education needed to be changed. He believed that children should be allowed to show their emotions in order to become well-rounded and freethinking individuals. Rousseau supported the ideals of the Enlightenment by defending the importance of reason and individual rights. Individuals, according to Rousseau, should be allowed to experience and explore life.

Modern History Sourcebook: Jean Jacques Rousseau: The Social Contract, 1762

Book 1

I mean to inquire if, in the civil order, there can be any sure and legitimate rule of administration, men being taken as they are and laws as they might be. In this inquiry I shall endeavor always to unite what right sanctions with what is prescribed by interest, in order that justice and utility may in no case be divided.

I enter upon my task without proving the importance of the subject. I shall be asked if I am a prince or a legislator, to write on politics. I answer that I am neither, and that is why I do so. If I were a prince or a legislator, I should not waste time in saying what wants doing; I should do it, or hold my peace.

As I was born a citizen of a free State, and a member of the Sovereign, I feel that, however feeble the influence my voice can have on public affairs, the right of voting on them makes it my duty to study them: and I am happy, when I reflect upon governments, to find my inquiries always furnish me with new reasons for loving that of my own country.

Chapter I: Subject of the first book

Man is born free; and everywhere he is in chains. One thinks himself the master of others, and still remains a greater slave than they. How did this change come about? I do not know. What can make it legitimate? That question I think I can answer.

If I took into account only force, and the effects derived from it, I should say: "As long as a people is compelled to obey, and obeys, it does well; as soon as it can shake off the yoke, and shakes it off, it does still better; for, regaining its liberty by the same right as took it away, either it is justified in resuming it, or there was no justification for those who took it away." But the social order is a sacred right which is the basis of all other rights. Nevertheless, this right does not come from nature, and must therefore be founded on conventions. Before coming to that, I have to prove what I have just asserted.

Chapter III: The Right of the Strongest

The strongest is never strong enough to be always the master, unless he transforms strength into right, and obedience into duty. Hence the right of the strongest, which, though to all seeming meant ironically, is really laid down as a fundamental principle. But are we never to have an explanation of this phrase? Force is a physical power, and I fail to see what moral effect it can have. To yield to force is an act of necessity, not of will - at the most, an act of prudence. In what sense can it be a duty?

Suppose for a moment that this so-called "right" exists. I maintain that the sole result is a mass of inexplicable nonsense. For, if force creates right, the effect changes with the cause: every force that is greater than the first succeeds to its right. As soon as it is possible to disobey with impunity, disobedience is legitimate; and, the strongest being always in the right, the only thing that matters is to act so as to become the strongest. But what kind of right is that which perishes when force fails? If we must obey perforce, there is no need to obey because we ought; and if we are not forced to obey, we are under no obligation to do so. Clearly, the word "right" adds nothing to force: in this connection, it means absolutely nothing.

Obey the powers that be. If this means yield to force, it is a good precept, but superfluous: I can answer for its never being violated. All power comes from God, I admit; but so does all sickness: does that mean that we are forbidden to call in the doctor? A brigand surprises me at the edge of a wood: must I not merely surrender my purse on compulsion; but, even if I could withhold it, am I in conscience bound to give it up? For certainly the pistol he holds is also a power.

Let us then admit that force does not create right, and that we are obliged to obey only legitimate powers. In that case, my original question recurs.

Lesson 3***Student Handout 3.9*****Mary Wollstonecraft (1759-1797)****Education:**

She was self-educated.

Early Life:

Mary was born in England. She was the second child of seven in a middle-class family. Her father was known to be abusive and harsh to the family. Mary tried to leave the family and to support herself, but she found she was limited in the types of jobs she could get because she was female. She worked as a companion and teacher. She was called back home to take care of her younger sisters and sick mother.

Beliefs:

Mary was not the first woman to recognize the inequalities between men and women during her lifetime, but she became the most popular. While she focused on fighting for the rights of women and against the inequalities in education, she also worked for the equal treatment of all human beings. She emphasized that education for men and women should be based on reason. Mary believed that people should be judged based on individual merit and moral virtue, not on gender. She wrote two books that discussed women's rights. Mary wanted men to treat their wives as equals, not as property. She also strongly urged that women be given equal opportunity when trying to get a job.

MARY WOLLSTONECRAFT (ESSAY DATE 1787)

SOURCE: *Wollstonecraft, Mary. "Unfortunate Situation of Females, Fashionably Educated, and Left Without a Fortune." In the following essay, from her 1787 publication *Thoughts on the Education of Daughters*, Wollstonecraft discusses the plight of single women without an independent fortune. Too many young women, Wollstonecraft argues, receive only a token education and are therefore left unable to provide for themselves.*

I have hitherto only spoken of those females, who will have a provision made for them by their parents. But many who have been well, or at least fashionably educated, are left without a fortune, and if they are not entirely devoid of delicacy, they must frequently remain single.

Few are the modes of earning a subsistence, and those very humiliating. Perhaps to be an humble companion to some rich old cousin, or what is still/worse, to live with strangers, who are so intolerably tyrannical, that none of their own relations can bear to live with them, though they should even expect a fortune in reversion. It is impossible to enumerate the many hours of anguish such a person must spend. Above the servants, yet considered by them as a spy, and ever reminded of her inferiority when in conversation with the superiors. If she cannot condescend to mean flattery, she has not a chance of being a favorite; and should any of the visitors take notice of her, and she for a moment forget her subordinate state, she is sure to be reminded of it./

Painfully sensible of unkindness, she is alive to every thing, and many sarcasms reach her, which were perhaps directed another way. She is alone, shut out from equality and confidence, and the concealed anxiety impairs her constitution; for she must wear a cheerful face, or be dismissed. The being dependent on the caprice of a fellow-creature, though certainly very necessary in this state of discipline, is yet a very bitter corrective, which we would fain shrink from.

A teacher at a school is only a kind of upper servant, who has more work than the menial ones./

A governess to young ladies is equally disagreeable. It is ten to one if they meet with a reasonable mother: and if she is not so, she will be continually finding fault to prove she is not ignorant, and be displeased if her pupils do not improve, but angry if the proper methods are taken to make them do so. The children treat them with disrespect, and often with insolence. In the mean time life glides away, and the spirits with it; 'and when youth and genial years are flown,' they have nothing to subsist on; or, perhaps, on some extraordinary occasion, some small allowance may be made for them, which is thought a great charity./

The few trades which are left, are now gradually falling into the hands of the men, and certainly they are not very respectable.

It is hard for a person who has a relish for polished society, to herd with the vulgar, or to condescend to mix with her former equals when she is considered in a different light. What unwelcome heart-breaking knowledge is then poured in on her! I mean a view of the selfishness and depravity of the world; for every other acquirement is a source of pleasure, though they may occasion temporary inconveniences. ...